



FILED & JUDGMENT ENTERED
Steven T. Salata

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Mar 03 2011

Clerk, U.S. Bankruptcy Court
Western District of North Carolina

George R. Hodges
George R. Hodges
United States Bankruptcy Judge

**UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
SHELBY DIVISION**

IN RE:

MOSSELLER, WILBUR BRAINERD
SSN: XXX-XX-2637

MOSSELLER, LORRAINE GIBSON
SSN: XXX-XX-5022

**Case No. 10-40731
Chapter 13**

Debtors

CONSENT ORDER GRANTING LIMITED RELIEF FROM THE AUTOMATIC STAY

THIS CAUSE coming before the undersigned United States Bankruptcy Judge for the Western District of North Carolina, and it appearing that R. Michael Hardison and Sara Hardison (“the Hardisons”), creditors herein, and the Debtors have agreed and consented to the entry of this Order allowing the limited relief from the automatic stay pursuant to the agreement of the parties as set forth below:

NOW THEREFORE, with the agreement and consent of the parties, the Court makes the following:

FINDINGS OF FACT

1. On August 31, 2010, the Debtors filed a petition with the Bankruptcy Court for the Western District of North Carolina under Chapter 13 of Title 11 of the United States Code.

2. Though not listed in the relevant schedules filed by the Debtors, the Hardisons are unsecured creditors of the Debtors, and thus, of the Bankruptcy Estate.

3. The Hardisons filed a Proof of Claim in this case on January 13, 2011 asserting an unsecured claim in the amount of \$400,000.00. Said claim is based on alleged negligent acts committed by Debtors that allegedly damaged the Hardisons.

4. At the time of the petition, a state court civil action was pending in the Buncombe County, North Carolina Superior Court, Docket number 10 CVS 03228, wherein the Hardisons sought damages from the Debtors. As such, the amount of the damages, and the claim against the Bankruptcy Estate, is unliquidated.

5. The Hardisons and the Debtors have agreed to allow limited relief from the automatic stay for the Hardisons to continue with the state court action for the purposes of liquidating the amount of damages owed by the Debtors and for the Hardisons to pursue and collect, if possible, from any insurance policies which provide coverage for the acts described in the Hardisons' complaint against the Debtors.

6. The Hardisons and the Debtors have agreed and consented to entry of this Order as shown by the signatures of counsel for the parties appearing below.

7. It further appearing to the Court that this modification of the automatic stay is in the best interest of judicial economy, and will not prejudice the interest of the Trustee, other creditors, or other parties in interest, no will it impair administration of the Estate.

8. It further appearing to the Court that good cause exists to justify the modification of the automatic stay pursuant to 11 U.S.C. § 362(d).

NOW THEREFORE, by virtue of the law and by reason of the premises aforesaid, and the consent of the parties, it is Ordered, Adjudged and Decreed as follows:

A. The automatic stay imposed by 11 U.S.C. § 362 is modified so as to permit R. Michael and Sara Hardison to pursue the state court civil action in accordance with applicable state law in order to liquidate their claim against the Debtors.

B. The automatic stay is further modified to permit R. Michael and Sara Hardison to pursue and collect, if possible, from any insurance policies which provide coverage for the acts described in the Hardisons' complaint against the Debtors.

C. The 10-day stay provided in Rule 4001(a)(3) is inapplicable to this Order.

Agreed and consented to this 24th day of February 2011.

CONSENTED TO AND AGREED BY:

/s/ William Gardner

William Gardner, Attorney for Debtors

/s/ Joshua Farmer

Joshua B. Farmer, Attorney for R. Michael and Sara Hardison

NO OBJECTIONS:

/s/ Steve Tate

Steven G. Tate, Trustee

IT IS THEREFORE SO ORDERED.

This order has been signed electronically.
The judge's signature and the court's seal appear at the top of the Order.

United States Bankruptcy Court